

## REMARKS

In accordance with the foregoing, claims 1, 3, 11 and 21 are amended. No new matter is added. Claim 2 and 15 remain cancelled. Claims 1, 3-14, and 16-29 are pending and under consideration.

### CLAIM REJECTIONS UNDER 35 U.S.C. §103

Claims 1, 3-14, and 16-29 are rejected under 35 U.S.C. §103 as allegedly unpatentable over U.S. Patent No. 5,884,032 to Bateman et al (hereinafter "Bateman") in view of U.S. Patent Application Publication No. 2003/0097339 to Funck et al. ("Funck").

Preamble of independent claim 1 is amended herewith to clarify the architecture of the in automatic call distribution system in which the method of claim 1 is used. No new matter is added, the claim amendments being fully supported by the originally filed specification, for example, FIGS. 1 and 2 with the associated description. Operations recited in the method of claim 1 are further clarified according to the specification.

Independent claim 1 patentably distinguishes over the cited prior art at least by reciting "extracting customer data from the customer database by the CTI instance on the basis of the caller data and an access level according to an agent profile stored in the CTI instance" wherein "the access level is one of a plurality of graded access rights."

The outstanding Office Action admits that Bateman does not teach or suggest a plurality of graded access rights, but relies on Funk to provide the missing teachings. Funck discloses that a customer provides different amounts of information to different vendors depending on security levels associated to the vendors. However, in Funck the customer is the one who provides different level of information. According to claim 1, caller data does not have different amount of information. Caller data merely provide one of the basis used by the CTI instance to extract customer data from the customer database. The other piece of information is an access level. Even if teachings of Bateman and Funck are combined, they do not render the method of claim 1 obvious.

Additionally, the outstanding Office Action alleges (see lines 11-14 on page 4 of the Office Action mailed on September 12, 2007) that the motivation to combine Funck and Bateman's teachings is "to select access level from plurality of graded access rights" which is exactly the language of the claims. Applicant respectfully rejects this assertion as it merely amounts to impermissible hindsight reconstruction of the claim language. Further, the Office Action asserts

that "[presentation] of the customer data to the agent based on security level is notoriously old and well known" (see lines 14-15 on page 4 of the Office Action mailed on September 12, 2007). The Office Action uses common knowledge as the principal evidence for the rejection. As explained in M.P.E.P. § 2144.03(E):

Any facts so noticed should . . . serve only to 'fill in the gaps' in an insubstantial manner which might exist in the evidentiary showing made by the Examiner to support a particular ground of rejection. It is never appropriate to rely solely on common knowledge in the art without evidentiary support in the record as the principal evidence upon which a rejection was based.

Thus the Office Action fails to substantiate the basis of combining disparate features of the prior art references. In *KSR Corp. v. Teleflex Inc.* (2007), the Supreme Court maintained that the analysis supporting a rejection under 35 U.S.C. 103(a) should be made explicit, and that it was "important to identify a reason that would have prompted a person of ordinary skill in the relevant field to combine the [prior art] elements" in the manner claimed.<sup>1</sup>

Since Bateman and Funck fail to teach or suggest all the features<sup>2</sup> recited in claim 1 and to substantiate combining the prior art's disparate teachings, independent claim 1 and claims 4-10 depending directly or indirectly from claim 1 are patentable.

Independent claim 3 patentably distinguishes over the cited prior art at least by reciting:

- formatting the customer data in a customer data document by the CTI instance, the customer data being formatted in accordance with an access level assigned to an individual agent having access to the agent workstation;
- all customer data is associated with one or more access levels identifying types of agents that should be allowed access to the customer data,
- the customer data is selected to determine data having an access level that matches the access level of an individual agent, and
- the customer data document is assembled by compiling the data having a matching access level.

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<sup>1</sup> Often, it will be necessary . . . to look to interrelated teachings of multiple patents; the effects of demands known to the design community or present in the marketplace; and the background knowledge possessed by a person having ordinary skill in the art, all in order to determine whether there was an apparent reason to combine the known elements in the fashion claimed by the patent at issue. To facilitate review, this analysis should be made explicit. *KSR*, slip op. at 14.

<sup>2</sup> See MPEP 2142 stating, as one of the three "basic criteria [that] must be met" in order to establish a *prima facie* case of obviousness, that "the prior art reference (or references when combined) must teach or suggest all the claim limitations," (emphasis added).

Independent claim 11 patentably distinguishes over Bateman and Funck at least by reciting:

- a first converting device to convert caller data into search parameters for searching customer data in a customer database;
- a second converting device to convert a first data format of the customer data retrieved using the search parameters from the customer database to a second data format of a customer data document, and to create the customer data document so that it contains information matching access rights of an agent who will address the caller;
- a working data memory to store the customer data document independent from the customer database; and
- an information provision unit to provide the agent with access to the customer data document, wherein
- the access rights of an agent who will address the caller are defined by an access profile stored in the CTI instance unit, and
- the system further comprises an assignment device to assign the customer data document to at least one agent profile.

The outstanding Office Action groups many claims (e.g. 1, 3, 11, and 21-23) in a single "rejection" and, as a result, fails to address specific recitations of the claims. Applicant respectfully submits that the Office Action does not meet the standard set forth in 37 C.F.R. 1.104 (c)(2). MPEP 2143.03, which states "[all] words in a claim must be considered in judging the patentability of that claim against the prior art" likewise is not satisfied. Applicant respectfully submits that lack of individualized support for rejecting the independent claims reciting different feature frustrate Applicant's right to defend patentability of the claims according to the features recited therein. Therefore, Applicant respectfully requests the Examiner to consider each claim on the merits according to the claim recitations.

Independent claim 11 and claims 12-14 and 16-20 depending directly or indirectly from claim 11 are patentable because Bateman and Funck fail to teach or suggest all the features recited in claim 11 and the Office Action does not substantiate combining the prior art's disparate teachings.

Independent claim 21 patentably distinguishes over the cited prior art at least by reciting "formatting a portion of the customer data to create a customer data document based on an agent security level, the agent security level identifying types of information within the customer

data to which a call answering agent is permitted access." Independent claim 21 and claims 22-29 depending directly or indirectly from claim 21 are patentable because Bateman and Funck fail to teach or suggest all the features recited in claim 21, and the Office Action does not substantiate combining the prior art's disparate teachings.

## CONCLUSION

There being no further outstanding objections or rejections, it is submitted that the application is in condition for allowance. An early action to that effect is courteously solicited.

Finally, if there are any formal matters remaining after this response, the Examiner is requested to telephone the undersigned to attend to these matters.

If there are any additional fees associated with filing of this Amendment, please charge the same to our Deposit Account No. 19-3935.

Respectfully submitted,

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